Senate Bill No. 776

CHAPTER 554

An act to amend Section 32127.3 of, and to add Section 32130.6 to the Health and Safety Code, relating to health care districts.

[Approved by Governor October 5, 2005. Filed with Secretary of State October 5, 2005.]

LEGISLATIVE COUNSEL'S DIGEST

SB 776, Runner. Health care districts: mortgage insurance, loans, credit.

Existing law provides for the formation and establishes the powers of a health care district. Existing law places limits on the extent to which a health care district may borrow money and incur indebtedness.

Existing law authorizes the board of directors of any district to borrow money or issue bonds and to execute first mortgages, first deeds of trust, or other necessary security interests exclusively for the purpose of securing federal mortgage insurance or federal loans for financing or refinancing the construction of new health facilities, the expansion, modernization, renovation, remodeling, or alteration of existing health facilities, and the initial equipping of those health facilities under the federal mortgage insurance programs available to a local hospital district.

This bill would add to the purposes for which the board of directors of a district may borrow money, issue bonds, or execute first mortgages, first deeds of trust, or other security interests, the purpose of securing federally insured loans issued under the National Housing Act.

Existing law requires that any first mortgage, first deed of trust, or other necessary security interest be executed in favor of the United States or appropriate federal agency.

The bill would additionally authorize the board of directors to execute first mortgages, first deeds of trust, or other security interests in favor of a federally designated mortgagor.

Existing law states the Legislature's determination that the United States or appropriate federal agency named as beneficiary of any first mortgage or other security interest delivered as authorized by this section is not a private person or body for purposes of the California Constitution's prohibition on the Legislature delegating to a private person or body the power to make, control, appropriate, supervise, or interfere with county or municipal corporation improvements, money, or property, or to levy taxes or assessments, or perform municipal functions.

For purposes of the constitutional provision above, the bill would add that the Legislature determines that a federally designated mortgagor named as beneficiary of any first mortgage or other security interest is not a private person or body.

The bill would authorize a district, by resolution adopted by a majority of the district board, to (1) enter into a line of credit with a commercial lender that is secured by the accounts receivable or other intangible assets of the district, and thereafter borrow funds against the line of credit to be used for any district purpose, (2) enter into capital leases for the purchase by the district of equipment to be used for any district purpose, and (3) enter into lease-purchase agreements for the purchase by the district of real property, buildings, and facilities to be used for any district purpose.

The people of the State of California do enact as follows:

SECTION 1. The Legislature intends to provide California's public hospitals owned and operated by health care districts with access to loans insured by the United States Department of Housing and Urban Development to ensure that they are able to finance essential modernization and seismic safety retrofit and reconstruction projects. It is the intent of the Legislature that federally insured hospital loans be utilized on a priority basis to finance essential retrofit and construction projects.

SEC. 2. Section 32127.3 of the Health and Safety Code is amended to read:

32127.3. (a) Exclusively for the purpose of securing federal mortgage insurance, federal loans, or federally insured loans issued pursuant to the National Housing Act (12 U.S.C. Secs. 1715w and 1715z-7) for financing or refinancing the construction of new health facilities, the expansion, modernization, renovation, remodeling, or alteration of existing health facilities, and the initial equipping of those health facilities under the federal mortgage insurance programs as are now or may hereafter become available to a local hospital district, and notwithstanding any provision of this division, or any other provision or holding of law, the board of directors of any district may do either or both of the following:

(1) Borrow money or issue bonds, in addition to other financing methods authorized under this division.

(2) Execute, in favor of the United States, appropriate federal agency, or federally designated mortgagor, first mortgages, first deeds of trust, or other necessary security interests as the federal government may reasonably require with respect to a health facility project property as security for that insurance.

(b) No payments of principal, interest, insurance premiums and inspection fees, and all other costs of financing obtained as authorized by this section shall be made from funds derived from the district's power to tax.

(c) The Legislature hereby determines and declares that the authorizations for executing the mortgages, deeds of trust, or other necessary security agreements by the board and for the enforcement of the federal government's rights thereunder are in the public interest in order to preserve and promote the health, welfare, and safety of the people of the state by providing, without cost to the state, a federal mortgage insurance program for health facility construction loans in order to stimulate the flow of private capital into health facilities construction to enable the critical need for new, expanded, and modernized public health facilities to be met.

(d) The Legislature further determines and declares that the United States, appropriate federal agency, or federally designated mortgagor named as beneficiary of any first mortgage or other security interest delivered as authorized by this section is not a private person or body within the meaning of Section 11 of Article XI of the California Constitution.

SEC. 3. Section 32130.6 is added to the Health and Safety Code, to read:

32130.6. Notwithstanding any other provision of law, a district may do any of the following by resolution adopted by a majority of the district board:

(a) Enter into a line of credit with a commercial lender that is secured, in whole or in part, by the accounts receivable or other intangible assets of the district, including anticipated tax revenues, and thereafter borrow funds against the line of credit to be used for any district purpose.

(1) Any money borrowed under this line of credit shall be repaid within five years from each separate borrowing or draw upon the line of credit.

(2) The district may enter into a new and separate line of credit to repay a previous line of credit, provided that the district complies with this section in entering into a new line of credit.

(b) Enter into capital leases for the purchase by the district of equipment to be used for any district purpose.

(1) The term of any capital lease shall not be longer than 10 years.

(2) The district may secure the purchase of equipment by a capital lease by giving the lender a security interest in the equipment leased under the capital lease.

(c) Enter into lease-purchase agreements for the purchase by the district of real property, buildings, and facilities to be used for any district purpose. The term of any lease-purchase agreement shall not exceed 10 years.

(d) Nothing in this section shall provide the district with the authority to increase taxes in order to repay a line of credit established pursuant to subdivision (a) unless the tax is passed pursuant to Article 4.6 (commencing with Section 53750) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

O